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COUNTY OF LOS ANGELES
SPECIAL INVESTIGATIONS DIVISION
CRIMINAL COURTS BUILDING
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GIL GARCETTI, DISTRICT ATTORNEY

March 18, 1993

Captain Donn P. Brooks
Homicide Bureau
Los Angeles County Sheriff's Department
211 West Temple Street
Los Angeles, California 90012

Dear Captain Brooks:

Re: S.I.D. File No. 100-7447/92-0605
L.A.S.D. File No. 092-09990-0186-055

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its investigation of the fatal shooting on November 17, 1992, of Raul Rudy Valber, age 49, by on-duty Los Angeles Sheriff's Department Deputies David Carver, Clarence Gallegos, Jeffrey Stillwell, and Vance Duffy. The District Attorney's Command Center was notified of the shooting at 9:15 p.m., on the same date. The undersigned and Senior Investigator [redacted] responded to the scene where they were briefed by Lieutenant Joseph Brown of the Los Angeles County Sheriff's Department. The reports prepared by the Los Angeles County Sheriff's Homicide Bureau were received by this office February 1, 1993.

The District Attorney's Office, in conducting its investigation, considered the physical evidence observed at the scene, reviewed the aforementioned reports, reviewed reports prepared by our Bureau of Investigation, and reviewed the

forensic autopsy report prepared by the Department of Coroner. The following analysis is based upon these reports and observations. We have concluded that Deputies Carver, Gallegos, Stillwell, and Duffy acted in lawful self-defense and defense of others, and we plan no further action in this matter.

STATEMENT OF FACTS

On November 17, 1992, at approximately 8:00 p.m.,[1] Los Angeles County Sheriff's Deputies David Carver and Clarence Gallegos responded to a radio call to assist paramedics at [redacted] in Walnut Park.[2] At this location, a small neighborhood market, they met with [redacted] a 39-year-old female, who was being treated by the paramedics for bruises and contusions. She told the deputies that approximately 30 minutes before, she and her husband were in a trailer on the next block with a person she knew as "Rudy." After her husband left to purchase some alcohol she and Rudy had gotten into an argument. She told them that Rudy then struck her three or four times in the torso with a bat or billy - type club, that he then reached for a gun but that she had knocked it away and fled the trailer. She and her husband then walked to the store on Santa Fe where the owner called the police for them. She also told the deputies that Rudy had been shooting this gun earlier in the evening. She gave the deputies a physical description of Rudy and the location of his trailer, and stated that she wanted to press charges. Deputy Carver noted that she appeared intoxicated and she was instructed to wait at the store.

Deputies Carver and Gallegos went to the location of this disturbance, a small trailer park located on the east side of the street at [redacted] Marbrisa Avenue in Walnut Park. There are thirteen small trailers located on the property, six north of a common driveway that runs east and west through the middle of the park, and six south of the driveway. "Rudy," later identified as Raul Rudy Valber, lived in the [redacted] trailer [redacted] Marbrisa on the [redacted] side of the park. His trailer was approximately twenty - five feet long and eleven feet wide. There were no trees or shrubs surrounding the trailer and it was easily accessible from the street. A four-foot chain-link fence surrounded the trailer park, but was open where the driveway exited onto Marbrisa. Valber's trailer sat approximately [redacted] feet from this driveway. There was one door, facing east, on Valber's trailer, and a distance of approximately thirteen feet separated Valber's trailer from the trailer directly behind and east of his.

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1 All communications leading up to and during this shooting were on the car-to-car, or tactical frequency, and as a result were not recorded. The times, therefore, are approximations.

2 An unincorporated area of Los Angeles serviced by the Firestone Sheriff's station.

Deputy Carver quietly approached Valber's trailer on foot and peered through a window which faced onto the street. He observed a male moving around inside who matched the physical description given by Mrs. [redacted] He also observed a blue steel semiautomatic handgun lying on a counter and an ammunition clip lying next to it. Deputy Carver returned to his patrol vehicle and requested backup units.

Los Angeles County Sheriff's Department Sergeant James Seulke and Deputies James Stillwell and Vance Duffy arrived shortly thereafter. Deputies Carver and Gallegos briefed them on the situation and a plan was devised whereby the deputies would attempt to call Valber out of the trailer with his hands up. Deputy Gallegos positioned himself behind a light pole almost directly in front and slightly to the north of Valber's door. Deputies Stillwell and Vance positioned themselves to the rear south corner of the trailer east of Valber's. Deputy Stillwell knelt on the ground, and Deputy Vance stood just behind him. Sergeant Seulke ordered some neighbors who were standing outside the residence just south of the location to go inside and then positioned himself behind a tree in front of this residence. Other units arrived and secured the area. All of the deputies and Sergeant Seulke were in full uniform.

Deputy Gallegos was armed with a 12-gauge Ithaca Pump shotgun and Deputies Stillwell and Duffy were armed with 9mm Beretta semiautomatic pistols.

Deputy Carver, also armed with a 9mm semiautomatic Beretta pistol, again approached the trailer and peered through the same window.[3] The deputies were all communicating by radio. Deputy Gallegos then yelled out something to the effect of, "It's the Sheriff's Department, Rudy, we want to talk to you. We know you have a gun inside there. Come out with your hands up. Leave the gun inside the location." Deputy Carver saw Valber pick up the gun and walk toward the door with it. Deputy Carver immediately alerted the other deputies that Valber was "using" and that he was approaching the door. Deputy Carver left his position by the window, and began running toward another light pole on the other side of the driveway, just north and east of Deputy Gallegos's position.[4] As Deputy Carver rounded Valber's trailer he saw Valber opening the door with his right hand (the door opened left to right), and step forward. Deputy Carver saw a gun in his left

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3 The plan the deputies devised called for Deputy Carver to watch to see if Valber picked up the gun. He was to alert the other deputies if this occurred, then quickly get out of the way, as the window was almost directly opposite the door and would be in the line of fire if shooting resulted.

4 Deputy Carver also yelled out the information about the gun to the other deputies as he was running around the trailer.

hand and, in his words:

> It was down kind of close to his . . . left leg. It was the same gun I saw sitting on the counter. I shone my [flash]light at him, and at which time he began to bring the gun up . . . toward a level area . . . and it appeared that he was looking at me and point[ed] the gun in my direction. I then fired two rounds, just double tap, real quick, 'cause I was trying to get towards cover behind the pole.

Immediately before he fired, Deputy Carver heard Deputy Gallegos say, "He's got a gun" and "no." By the time Deputy Carver got to the light pole, Valber was already on the ground. Deputy Carver estimates he was eight to ten feet from Valber when he fired and that there was nothing between them. Deputy Carver did not hear Valber say anything.

Deputy Gallegos told investigators that after he ordered Valber to step outside he heard Deputy Carver say over the radio that Valber had picked up the gun and was walking toward the door. He then saw Valber push the door open with his right hand and saw the gun in his left hand down by his side. Deputy Gallegos yelled, "He's got a gun," saw Valber raise the gun up and recalls yelling "no" when the gun was about level with Valber's waist. Deputy Gallegos said that Valber looked in his direction and it was at this point that he fired the shotgun "in fear of his life." The distance between the door of the trailer and the light pole behind which Deputy Gallegos was positioned was approximately fifteen feet. He said that simultaneous to his firing he heard shots coming from his left and right and saw Valber go down. Deputy Gallegos then yelled, "He's down, he's down," and the shooting stopped.

Deputies Stillwell and Vance, in their positions at the rear of the trailer east of Valber's, also heard Deputy Carver's report over the radio concerning Valber's arming himself with the gun and approaching the door. Deputy Stillwell said that he saw the door opening and heard Deputy Gallegos yell, "He's got a gun, he's got a gun." The door partially obstructed his view of Valber, but he could see his hand coming out with a gun in it. He heard Deputy Gallegos yell, "No,"[5] then heard a gunshot and right after that, believing that the suspect was shooting at Deputy Gallegos, said, "He's shooting at him," and fired two rounds.

Deputy Duffy observed the trailer door start to open, heard Deputy Gallegos yell, "He's got a gun," then, louder, "No," which Deputy Duffy described as "almost like a scream." He then heard the sound of gunfire, saw muzzle flash, which he knew wasn't coming from Deputy Stillwell, who was kneeling on the ground in front of

5 Which Deputy Stillwell characterized as a "very pronounced" no.

him, and, fearing that Deputy Gallegos's life was in danger, fired. He stopped firing to assess the situation, heard more shots, and fired twice more. He then heard Deputy Gallegos yell that the suspect was down and for everyone to stop firing.

Sergeant Seulke told investigators that after the deputies positioned themselves he heard Deputy Gallegos call for Valber to come out. He then heard Deputy Carver say over the radio, "He's picking up the gun, he's heading for the door." Sergeant Seulke saw Deputy Carver run from the window and disappear from his view around the trailer. He then heard Deputy Gallegos say, "Don't come out with the gun. Drop it," and then a volley of gunfire. Sergeant Seulke did not fire his weapon.

[redacted] an eighteen-year-old male, was one of those standing outside the house immediately [redacted] of the trailer. After being told to go inside by Sergeant Suelke, he went to a window in the northwest bedroom that faced out onto the scene and saw a police officer hiding behind a light pole directly east of Valber's door. He could see this officer holding a shotgun down by his leg. He heard someone yell, "Police, come out with your hands up," and saw light from flashlights. He then ducked for cover and didn't see what occurred after that. He heard what sounded like a door being kicked open, then three "little" shots followed by three "big" shots. He then heard an officer say,"Stop, stop, he's on the ground."[6] The window that Mr. [redacted] looked out of remain closed throughout this incident.

Fire Department paramedics pronounced Valber dead at the scene at 8:26 p.m.

The undersigned observed Valber's body where he fell lying in a prone position on the floor of the trailer with his head to the west and his feet extended to the east along the threshold of the door. His left arm was underneath his body and his right arm was extended from his body and bent at the elbow, parallel to his body. Approximately six inches north and eighteen inches west of the body was a Davis Industries P-32, .32 caliber semiautomatic pistol. The gun was found to be loaded with one round in the chamber and five rounds in the magazine. Another .32 caliber magazine loaded with six rounds was lying on a table approximately three feet from Valber's body, and a bag containing .32 caliber ammunition was located in the bedroom area of the trailer. Two buckshot pellets were found beneath Valber's body.

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6 Investigators canvassed the trailer park and surrounding neighborhood for additional eye - witnesses. With the exception of Mr. [redacted] no other civilians actually witnessed the shooting or any part of the events immediately leading up to it. Many did report hearing the gunfire, and a [redacted] who was inside his trailer [redacted] the driveway and [redacted] space [redacted] of Valber's, did hear something like, "Get your hands up," just before the shots. At six of the thirteen trailers in the park no one was home.

Numerous bullet and/or shotgun pellet holes were observed to the outside and outer edge of the trailer door. Additional holes were observed to a screen and metal door frame inside the door. A window in the trailer door was observed to have several bullet and/or shotgun pellet holes in and around it as well. A through-and - through bullet hole was observed on the east side of the trailer between the door and the north edge of the trailer approximately twenty-four inches above the ground. This damage was consistent with that which would be caused by the impact or passage of bullets and buckshot fired with an outside to inside trajectory. Four additional through-and-through bullet and/or shotgun pellet holes were observed on the interior east wall of the trailer. This damage was consistent with that which would be caused by the passage of bullets fired with an inside to outside trajectory.

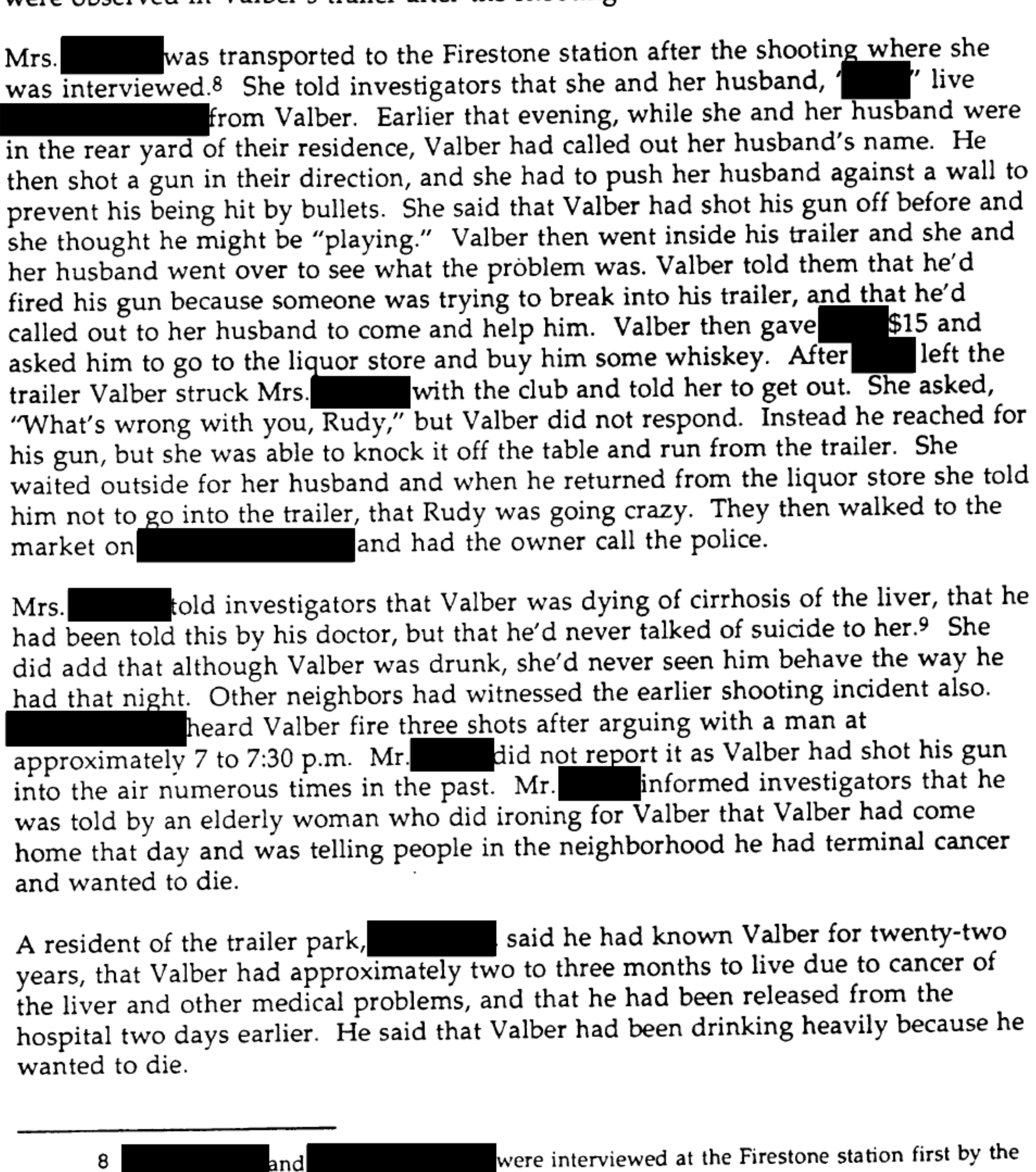
Three spent 12-gauge shotgun shells and eight 9mm cartridge casings were recovered from the ground in and around the light poles and the area between Valber's trailer and the one east of his. The Firearms Identification Bureau of the Los Angeles Sheriff's Department's Scientific Services Bureau determined that the three expended shotgun shells were fired by Deputy Gallegos. Of the expended 9mm cartridges, it was determined that two were fired by Deputy Carver, two were fired by Deputy Stillwell, and four were fired by Deputy Duffy. An expended 9mm bullet recovered from the kitchen floor inside the trailer was found to have been fired by Deputy Carver, and an expended 9mm bullet recovered from the exterior surface of the east wall was found to have been fired by Deputy Stillwell.[7]

Deputy Medical Examiner Solomon Riley, M.D., of the Los Angeles County Department of Coroner, conducted an autopsy on November 19, 1992, and ascribed the cause of death to a gunshot wound to the right side of the lower chest. This wound consisted of twelve individual pellet wounds, and was caused by the shotgun blast. Valber also suffered other, non-fatal, wounds which consisted of three shotgun pellet entry wounds and one pellet graze wound to the back of the upper torso and neck and to the left side of the neck. These wounds tracked back to front and upward and penetrated skin and tissue. The Coroner also noted a missile - entry wound to the right foot, directed front to back; a missile graze wound to the surface of the neck, directed back to front and upward; and a missile wound to the surface of the right arm, directed back to front and slightly upward.

According to the Coroner's Toxicological Report, Valber had a .38 blood alcohol. No other drugs were detected. Numerous empty beer cans and an empty bottle of rum

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7 The two buckshot pellets found beneath Valber's body, the lead core of an expended bullet, a lead fragment, and a piece of shotgun wadding located at the scene were found to have no comparison value. Ten buckshot pellets recovered by the coroner were also found to have no comparison value.



were observed in Valber's trailer after the shooting.

Mrs. [redacted] was transported to the Firestone station after the shooting where she was interviewed.[8] She told investigators that she and her husband, "[redacted]" live [redacted] from Valber. Earlier that evening, while she and her husband were in the rear yard of their residence, Valber had called out her husband's name. He then shot a gun in their direction, and she had to push her husband against a wall to prevent his being hit by bullets. She said that Valber had shot his gun off before and she thought he might be "playing." Valber then went inside his trailer and she and her husband went over to see what the problem was. Valber told them that he'd fired his gun because someone was trying to break into his trailer, and that he'd called out to her husband to come and help him. Valber then gave [redacted] $15 and asked him to go to the liquor store and buy him some whiskey. After [redacted] left the trailer Valber struck Mrs. [redacted] with the club and told her to get out. She asked, "What's wrong with you, Rudy," but Valber did not respond. Instead he reached for his gun, but she was able to knock it off the table and run from the trailer. She waited outside for her husband and when he returned from the liquor store she told him not to go into the trailer, that Rudy was going crazy. They then walked to the market on [redacted] and had the owner call the police.

Mrs. [redacted] told investigators that Valber was dying of cirrhosis of the liver, that he had been told this by his doctor, but that he'd never talked of suicide to her.[9] She did add that although Valber was drunk, she'd never seen him behave the way he had that night. Other neighbors had witnessed the earlier shooting incident also. [redacted] heard Valber fire three shots after arguing with a man at approximately 7 to 7:30 p.m. Mr. [redacted] did not report it as Valber had shot his gun into the air numerous times in the past. Mr. [redacted] informed investigators that he was told by an elderly woman who did ironing for Valber that Valber had come home that day and was telling people in the neighborhood he had terminal cancer and wanted to die.

A resident of the trailer park, [redacted] said he had known Valber for twenty-two years, that Valber had approximately two to three months to live due to cancer of the liver and other medical problems, and that he had been released from the hospital two days earlier. He said that Valber had been drinking heavily because he wanted to die.

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8 [redacted] and [redacted] were interviewed at the Firestone station first by the Sheriff's investigators then by the undersigned and Investigator Hunter.

9 The Coroner noted moderate cirrhosis of the liver in his report.